

Message Text

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ACTION EB-07

INFO OCT-01 EUR-12 EA-07 IO-10 ISO-00 AGR-05 CEA-01

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FM USMISSION GENEVA

TO SECSTATE WASHDC 6551

INFO AMEMBASSY CANBERRA

AMEMBASSY OTTAWA

USMISSION EC BRUSSELS

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TAGS: ETRD, GATT, CA

SUBJ: GATT WORKING PARTY ON CANADIAN IMPORT QUOTAS ON EGGS

REF: STATE 250686

SUMMARY. WP EXAMINED CANADA EGG CONTROLS AND U.S. QUESTIONS IN DEPTH. POLITICAL NATURE OF WP MAY PREVENT ANY ULTIMATE CLEAR-CUT CONCLUSIONS. END SUMMARY.

1. IN OCT. 28-29 SECOND SESSION OF SUBJECT WP, ALL THREE U.S. QUESTIONS REFERRED TO IN GATT IN L/4223 WERE DISCUSSED. BRAZIL AND INDIA WERE ABSENT; THUS WP WAS ONLY COMPOSED OF EC, AUSTRALIA, JAPAN PLUS CANADA AND U.S. BEFORE ELABORATING ON US CASE, US DEL CLARIFIED TWO OUTSTANDING ISSUES FROM PREVIOUS SESSION. US AGREED THAT ABSOLUTE DECLINE IN CANADIAN EGG PRODUCTION NOT REQUIRED BY ARTICLE XI AND NOTED US UNDERSTANDING THAT CANADIAN SYSTEM IS

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INTENDED AS PERMANENT ONE UNDER ARTICLE XI 2(C) (I).

2. IN DEPTH DISCUSSION OF CEMA PRODUCTION CONTROLS FOLLOWED IN WHICH US STRESSED CEMA'S INABILITY TO EFFECTIVELY CONTROL PRODUCTION AS REQUIRED BY ARTICLE XI. IN RESPONSE TO US PRESENTATION OF EGG TRADE FIGURES FROM GOC SOURCES IN WHICH WE SHOWED PRODUCTION CONTROL APPEARED INEFFECTIVE, CANADA (EASTHAM) RESPONDED WITH OTHER GOC FIGURES WHICH SUGGESTED 96 PERCENT OF PRODUCTION IS CONTROLLED. BOTH THE EC AND AUSTRALIA ALSO PRESSED FOR MORE DETAILS FROM GOC, AND WP DISCUSSION FOCUSED ON THE STATISTICAL BIASES OF DIFFERENT GOC METHODS OF COLLECTING DATA, PROBLEM OF CONTROLLING EGG PRODUCTION BY CONTROLLING LAYERS (GIVEN WIDE VARIATION OF LAYER OUTPUT), THE DIFFERENT PROVINCIAL CRITERIA USED TO CONTROL PRODUCERS, AND A HOST OF OTHER FACTORS BEARING ON THE EFFECTIVENESS OF PRODUCTION CONTROLS. DIFFICULTY IN DETERMINING WHAT PRODUCTION WOULD BE IN THE ABSENCE OF RESTRICTIONS FURTHER COMPLICATED ISSUE. EC WAS PARTICULARLY INTERESTED IN UNCONTROLLED PRODUCERS (THOSE WITH UP TO 500 HENS IN SOME PROVINCES) AND PRESSED GOC DEL ON OBVIOUS PRACTICAL PROBLEMS OF FACTORING THIS PRODUCTION INTO CEMA SCHEME. SO DID WE. DESPITE EXTENSIVE DISCUSSIONS, EC AND AUSTRALIA SAID THEY WERE STILL UNCLEAR ON SOME ASPECTS OF CEMA. JAPAN ONLY LISTENED. WP MEMBERS (INCLUDING US) INDICATED NEED TO PROBE FURTHER ON ISSUE. UNEXPECTED EC HELP IN QUESTIONING OF CEMA EFFECTIVENESS RESULTED IN MORE POSITIVE DISCUSSION IN TERMS OF US POSITION THAN WAS INITIALLY EXPECTED.

3. ON BASE PERIOD ISSUE, US DEL STRESSED THAT SINCE ARTICLE XI REQUIRES THAT IMPORT RESTRICTION MUST BE "NECESSARY" FOR OPERATION OF A DOMESTIC CONTROL SYSTEM, THE LEVEL OF RESTRICTION IS PERTINENT BOTH TO THE LEGALITY OF ITS MAINTENANCE AND TO ITS CONSISTENCY WITH THE LAST PARAGRAPH OF ARTICLE XI. WE SAID THE NEAR-EMBARGO QUOTA LEVEL APPEARED BOTH UNNECESSARY TO CEMA OPERATION AND UNREASONABLE IN VIEW OF THE DOWN TREND IN THE BASE PERIOD ON WHICH IT IS CALCULATED. CANADA NOTED THAT US EXPORTS TO CANADA IN TWO-THIRDS OF LAST 25 YEARS WERE LIMITED OFFICIAL USE

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BELOW THE QUOTA LEVEL AND SAID MOST RECENT YEARS PRECEDING QUOTA (1969-73) SEEMED MOST RELEVANT TO ESTABLISH BASE PERIOD. WE NOTED THAT PROVINCIAL PRODUCTION QUOTAS ARE BASED ON 1967-71 PERIOD IN WHICH US HAD SIGNIFICANTLY HIGHER EXPORTS TO CANADA. ENSUING DISCUSSION REVOLVED AROUND MEANING OF "NECESSARY" AND CRITERIA FOR ESTABLISHING QUOTA; VIEWS AND INTERPRETATIONS VARIED. IN DETERMINING NECESSITY OF QUOTA, EC SUGGESTED LOOKING

AT US SYSTEM TO ASSESS EXPECTED IMPACT ON CEMA. US RESPONDED THAT US SYSTEM WAS OUTSIDE TERMS OF REFERENCE OF WP AND THAT IN ANY EVENT WE HAD NO MARKETING "SYSTEM" OTHER THAN FREE MARKET. HOWEVER, SINCE SOME WP MEMBERS THOUGHT IT WOULD BE USEFUL TO HAVE SOME DESCRIPTION OF TYPICAL EGG MARKETING IN US, WE AGREED TO PROVIDE A SHORT SUMMARY ON THAT ISSUE AT NEXT MEETING. SEVERAL MEMBERS OF WP PRESSED US FOR SOME INDICATION OF WHAT QUOTA LEVEL SHOULD BE. WP GENERALLY AGREED THAT 1974 WAS NOT A REPRESENTATIVE YEAR. WE AT SOME DISADVANTAGE IN ABSENCE OF SPECIFIC SUGGESTION FOR QUOTA AND RATIONALE FOR SUPPORTING THE LEVEL.

4. IN RESPONSE TO US STATEMENT ON NULLIFICATION AND IMPAIRMENT (AS OUTLINED IN POSITION PAPER USED FOR FIRST MEETING AND REFTEL), CANADA AGREED THAT THEORETICALLY

THERE IS AN IMPAIRMENT OF THE BINDINGS BUT THAT DETAILED DISCUSSION OF THIS ISSUE SHOULD BE DELAYED UNTIL LEVEL OF QUOTA IS RESOLVED SINCE A FINDING THAT THE QUOTA MEETS ARTICLE XI REQUIREMENTS WOULD MEAN THERE IS NO IMPAIRMENT AS A PRACTICAL MATTER. EC INTEREST IN THIS ISSUE IS GREAT BUT APPEARS TO SUPPORT VIEW THAT THERE MAY NOT EVEN BE THEORETICAL IMPAIRMENT, DEPENDING ON FACTS OF CASE AND ON FURTHER INFORMATION ON MEASURE OF DAMAGES. JAPAN SAID THIS DEPENDED ON CRITERIA FOR FINDING IMPAIRMENT. US DEL HAD TO REPEATEDLY REMIND WP THAT ON ISSUE OF WHETHER DAMAGES HAD TO BE PROVEN (AS WELL AS ON OTHER ISSUES RAISED), WP MUST FOCUS ONLY ON THOSE ISSUES REFERRED TO IT BY COUNCIL. COUNCIL DID NOT ASK WP FOR MEASUREMENT OF IMPAIRMENT. ISSUE OF IMPAIRMENT NOT AS THOROUGHLY DISCUSSED AS WE HAD HOPED DUE TO HESITANCY OF SOME WP MEMBERS TO SEPARATE ISSUE LIMITED OFFICIAL USE

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FROM QUESTIONS OF EFFECTIVENESS OF CEMA SYSTEM AND LEVEL OF QUOTA, PARTICULARLY IN REGARD TO POSSIBLE MEASUREMENT OF IMPAIRMENT.

5. WP MEMBERS AGREED THAT ADDITIONAL DISCUSSION IS NECESSARY ON ALL THREE GATT ISSUES AND TENTATIVELY AGREED TO MEET IN SECOND WEEK OF DECEMBER (GATT SCHEDULE OF MEETINGS MADE AN EARLIER MEETING IMPOSSIBLE).

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CIAE-00 COME-00 DODE-00 FRB-03 H-02 INR-07 INT-05

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CANADA SUGGESTED THAT ADDITIONAL QUESTIONS, SUCH AS LONG LIST ALREADY SUBMITTED BY AUSTRALIAN DEL, COULD BE SUBMITTED TO GOC OR SECRETARIAT FOR AN EARLY GOC RESPONSE (POSSIBLY BEFORE NEXT MEETING). OBVIOUS IMPORTANCE WP MEMBERS ATTACH TO THIS AS INTERPRETATION OF ARTICLE XI LEADS US DEL TO THE VIEW THAT FINAL WORK WILL NOT BE COMPLETED BY END OF YEAR, IF EVER. ALSO, CONSIDERING ABILITY OF WP MEMBERS TO PROLONG DEBATE, DISCUSSION ON ALL THREE BASIC ISSUES MAY DRAG ON.

6. COMMENT: ABSENCE OF BRAZIL AND INDIA, DESPITE REPEATED PRODDING BY US AND SECRETARIAT, PROVIDES CANADA CONVENIENT DEVICE TO GET OUT OF TROUBLE IF THEY SHOULD LATER DECIDE THINGS NOT GOING WELL. BELIEVE THERE IS GENUINE DOUBT IN AT LEAST SOME MINDS WHETHER CEMA IS COMPLETELY EFFECTIVE IN CONTROLLING PRODUCTION. HOWEVER, WE ALSO DETECT A FEELING THAT CEMA DOES HAVE SOME USEFUL IMPACT. WE BELIEVE CANADA

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IS NOW ON DEFENSIVE ON MATTER OF IMPORT QUOTA LEVEL

RPT LEVEL. IMPAIRMENT ISSUE, I.E., THIRD QUESTION,
DOES NOT SHOW PROMISE OF ULTIMATE RESOLUTION. IN SUM
WE HAVE MADE SOME USEFUL PROGRESS, BUT BECAUSE OF COM-
PLEX NATURE OF ISSUES AND POLITICAL ASPECTS INVOLVED IN
WP ENVIRONMENT, WE NOT OPTIMISTIC ABOUT CHANCES FOR
ULTIMATE CLEAR-CUT WP CONCLUSIONS.ABRAMS

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